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HOUSE BILL 456

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ABSENTEE VOTING IN LIEU OF  
ESTABLISHING A POLLING PLACE IN SMALL, ISOLATED PRECINCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Election Code is enacted  
to read:

"~~[NEW MATERIAL]~~ MAIL BALLOT ELECTION PRECINCT--ABSENTEE  
VOTING IN LIEU OF POLLING PLACE.--

A. Notwithstanding the provisions of Section 1-1-11  
NMSA 1978, a board of county commissioners may designate a  
precinct as a mail ballot election precinct if, upon a written  
request of the county clerk, it finds that the precinct has  
fewer than fifty voters and the nearest polling place for an  
adjoining precinct is more than thirty miles driving distance  
from the polling place designated for the precinct in question.

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1           B. If a precinct is designated a mail ballot  
2 election precinct, in addition to the notice required pursuant  
3 to Section 1-3-8 NMSA 1978, the county clerk shall notify by  
4 registered mail all voters in that precinct at least forty days  
5 before an election that each voter will be sent an absentee  
6 ballot twenty-eight days before the election and that there  
7 will be no polling place for the precinct on election day.  
8 The county clerk shall include in the notice a card informing  
9 the voter that if the voter does not want to receive an  
10 absentee ballot, the voter should return the card before the  
11 date the county clerk is scheduled to mail out absentee  
12 ballots. The card shall also inform the voter that a voting  
13 system equipped for persons with disabilities will be available  
14 at all early voting sites before election day and in the office  
15 of the county clerk on election day in case the voter prefers  
16 to vote in person and not by mail.

17           C. The county clerk shall mail each voter in the  
18 mail ballot election precinct an absentee ballot on the twenty-  
19 eighth day before an election, unless the voter has requested  
20 otherwise, along with a notice that there will be no polling  
21 place in that precinct on election day.

22           D. The county clerk shall keep a sufficient number  
23 of ballots from a mail ballot election precinct such that if a  
24 voter from that precinct loses or does not receive an absentee  
25 ballot before election day, the voter may vote on an absentee

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1 ballot in the office of the county clerk on election day in  
2 lieu of voting on the missing ballot."

3 Section 2. Section 1-3-2 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 51, as amended) is amended to read:

5 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

6 A. Not later than the first Monday in November of  
7 each odd-numbered year, the board of county commissioners shall  
8 by resolution:

9 (1) designate the polling place of each  
10 precinct that shall provide individuals with physical mobility  
11 limitations an unobstructed access to at least one voting  
12 machine;

13 (2) create additional precincts to meet the  
14 requirements of Section 1-3-1 NMSA 1978 or upon petition  
15 pursuant to Section 4-38-21 NMSA 1978;

16 (3) create additional polling places in  
17 existing precincts as necessary pursuant to Section 1-3-7.1  
18 NMSA 1978; ~~and~~

19 (4) divide any precincts as necessary to meet  
20 legal and constitutional requirements for redistricting; and

21 (5) designate any mail ballot election  
22 precincts.

23 B. The county clerk shall notify the secretary of  
24 state in writing of any proposed changes in precincts or the  
25 designation of polling places made by the board of county

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1 commissioners and shall furnish a copy of the map showing the  
2 current geographical boundaries, designation and word  
3 description of each new polling place and each new or changed  
4 precinct.

5 C. The secretary of state shall review all new or  
6 changed precinct maps submitted pursuant to this section for  
7 compliance under the Precinct Boundary Adjustment Act. Any  
8 necessary precinct boundary adjustments shall be made and  
9 submitted to the secretary of state no later than the first  
10 Monday in December of [~~that~~] each odd-numbered year. Upon  
11 approval of the new or changed precincts by the secretary of  
12 state, the precincts and polling places as changed by the  
13 resolution of the boards of county commissioners and approved  
14 by the secretary of state shall be the official precincts and  
15 polling places for the next succeeding primary and general  
16 elections."

17 Section 3. Section 1-3-7 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 57, as amended) is amended to read:

19 "1-3-7. POLLING PLACES.--

20 A. No less than one polling place shall be provided  
21 for each precinct that is not a mail ballot election precinct.

22 B. The board of county commissioners shall  
23 designate as the polling place, or places as the case may be,  
24 in each precinct, other than a mail ballot election precinct,  
25 the most convenient and suitable public building or public

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1 school building in the precinct that can be obtained.

2 C. If no public building or public school building  
3 is available, the board of county commissioners shall provide  
4 some other suitable place, which shall be the most convenient  
5 and appropriate place obtainable in the precinct, considering  
6 the purpose for which it is to be used pursuant to the Election  
7 Code.

8 D. If no public building or public school building  
9 is available in the precinct, the precinct is not a mail ballot  
10 election precinct and [~~if~~] there is no other suitable place  
11 obtainable in the precinct, the board of county commissioners  
12 may designate as a polling place for the precinct the most  
13 convenient and suitable building or public school building  
14 nearest to that precinct that can be obtained. [~~Provided~~] No  
15 polling place shall be designated outside the boundary of the  
16 precinct as provided in this subsection until such designated  
17 polling place is approved by written order of the district  
18 court of the county in which the precinct is located.

19 E. Upon application of the board of county  
20 commissioners, the governing board of any school district shall  
21 permit the use of any school building or a part thereof for  
22 registration purposes and the conduct of any election, provided  
23 [~~however~~] that the building or the part used for the election  
24 complies with the standards set out in the federal Voting  
25 Accessibility for the Elderly and Handicapped Act [~~Public Law~~

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1 98-435)].

2 F. Public schools may be closed for elections at  
3 the discretion of local school boards."

4 Section 4. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2008.

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